

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

JOHN WILEY & SONS, INC, *et al.*

Plaintiffs,

- against -

BOOK DOG BOOKS, LLC,

Defendants.

-----X

13cv816

-----X

CENGAGE LEARNING, INC, *et al.*,

Plaintiffs,

- against -

BOOK DOG BOOKS, LLC, *et al.*

Defendants.

-----X

16cv7123

WILLIAM H. PAULEY III, District Judge:

VERDICT FORM

WILLIAM H. PAULEY III, United States District Judge:

According to the principles of law as charged by this Court and the facts as you find them, please answer the following questions:

I. Trademark Infringement

Question 1. Plaintiffs are pursuing trademark infringement claims for 10 trademarks. Those trademarks are listed in TABLE 1. Which trademarks, if any, have Plaintiffs established by a preponderance of the evidence that Defendants infringed?

Check only one box



ALL



SOME



NONE

If you answered "ALL" to Question 1, go to Question 2.

If you answered "NONE" to Question 1, go directly to Section II.

If you answered "SOME" to Question 1, please mark in the "LIABILITY" column of TABLE 1, the trademarks that you find Defendants infringed. Then proceed to Question 2.

Question 2. If you answered "ALL" or "SOME," to *Question 1*, you must decide whether Defendants' infringement was willful or not willful. Which trademarks, if any, have Plaintiffs established by a preponderance of the evidence that Defendants' infringement was willful?

Check only one box



ALL



SOME



NONE

If you answered "ALL" to Question 2, go to Question 3.

If you answered "NONE" to Question 2, go to Question 3.

If you answered "SOME" to Question 2, please identify the trademarks that you find Defendants willfully infringed by checking the box in the "WILLFUL" column of TABLE 1. Please identify the trademarks that you find Defendants did not willfully infringe by checking the box in the "NOT WILLFUL" column of TABLE 1. Then proceed to Question 3.

Question 3. If you answered “ALL” or “SOME” to *Question 1*, you must determine an amount of statutory damages to award Plaintiffs for each trademark that you found Defendants infringed. If you choose to award the same amount of statutory damages for each trademark infringed, please fill in the amount you award Plaintiffs for each trademark infringed on the line below. If you choose to award different amounts of damages for different trademarks, please identify the amount you award Plaintiffs for each trademark that you found Defendants infringed in the “DAMAGES AWARD” column of TABLE 1.

The amount of statutory damages that you must award Plaintiffs for each trademark infringed is as follows:

If Not Willful	<i>You must award damages between \$1,000 and \$200,000 per trademark infringed</i>
If Willful	<i>You must award damages between \$1,000 and \$2,000,000 per trademark infringed</i>

What amount of statutory damages *per trademark infringed* do you award Plaintiffs?

Amount: \$ 2,000,000.⁰⁰ per trademark*

**Do not fill in if you choose to award different amounts of damages in TABLE 1*

Please proceed to Section II.

Verdict Form - Table 1

If Not Willful	You must award damages between \$1,000 and \$200,000
If Willful	You must award damages between \$1,000 and \$2,000,000

							WILLFULNESS			
	Trademark	Roadmap Title #	Case	TITLE	PUBLISHER	LIABILITY	WILLFUL	NOT WILLFUL	DAMAGES AWARD	
1	Cengage Learning	18	BDB 1	Business Ethics: Ethical Decision Making and Cases	Cengage		✓		2,000,000	
		19	BDB 1	Business Ethics: Ethical Decision Making and Cases	Cengage					
		22	BDB 1	Communication Between Cultures	Cengage					
		41	BDB 1	Intercultural Communication: A Reader	Cengage					
		62	BDB 1	Sociology: The Essentials	Cengage					
		63	BDB 1	Statistics for Evidence Based Practice and Evaluation	Cengage					
		102	BDB 1	Microeconomics: Private and Public Choice	Cengage					
		105	BDB 1	Organizational Communication: Approaches and Processes	Cengage					
2	Brooks Cole	17	BDB 1	Becoming a Helper	Cengage		✓		2,000,000	
		44	BDB 1	Issues and Ethics in Helping Professions	Cengage					
3	McGraw-Hill	152	BDB 2	Workbook/Laboratory Manual to Accompany Puntos de Partida	McGraw-Hill		✓		2,000,000	
4	Pearson	53	BDB 1	Political Science	Pearson		✓		2,000,000	
		67	BDB 1	Teaching and Learning with Technology	Pearson					
5	Allyn & Bacon	92	BDB 1	Intercultural Competence	Pearson		✓		2,000,000	
6	Benjamin Cummings	101	BDB 1	Microbiology	Pearson		✓		2,000,000	
7	Merrill	128	BDB 1	Human Resources Administration in Education	Pearson		✓		2,000,000	
8	Prentice Hall	114	BDB 1	Supply Chain Management	Pearson		✓		2,000,000	
9	Wiley	65	BDB 1	Strategic Market Management	Wiley		✓		2,000,000	
10	JW	131	BDB 1	Organic Chemistry as a Second Language	Wiley		✓		2,000,000	

II. Copyright Infringement

Question 4. Plaintiffs are pursuing copyright infringement claims for 142 titles. Those 142 titles are listed in TABLE 2. Which copyrights, if any, have Plaintiffs established by a preponderance of the evidence that Defendants infringed?

Check only one box

☒ ALL ☐ SOME ☐ NONE

If you answered "ALL" to Question 4, go to Question 5.

If you answered "NONE" to Question 4, go directly to Section III.

If you answered "SOME" to Question 4, please mark the copyrights that you find Defendants infringed in the "LIABILITY" column of TABLE 2. Then proceed to Question 5.

Question 5. If you answered "ALL" or "SOME," to *Question 4*, you must determine whether Defendants' infringement was willful, innocent, or neither willful nor innocent. Please mark below whether you find Defendants' copyright infringement was "ALL WILLFUL," "ALL INNOCENT," "ALL NEITHER WILLFUL NOR INNOCENT," or "SOME MIX OF THE ABOVE."

Check only one box

☒ ALL WILLFUL
☐ ALL INNOCENT
☐ ALL NEITHER WILLFUL NOR INNOCENT
☐ SOME MIX OF THE ABOVE

If you answered "ALL WILLFUL," go to Question 6.

If you answered "ALL INNOCENT," go to Question 6.

If you answered "ALL NEITHER WILLFUL NOR INNOCENT," go to Question 6.

If you answered "SOME MIX OF THE ABOVE," please mark the willfulness determination you make for each copyright that you found Defendants infringed in the columns marked "WILLFUL," "INNOCENT," and "NEITHER WILLFUL NOR INNOCENT" in TABLE 2. Then proceed to Question 6.

Question 6. If you answered “ALL” or “SOME” to *Question 4*, you must determine an amount of statutory damages to award Plaintiffs for each copyright that you found Defendants infringed. If you choose to award the same amount of statutory damages per copyright infringed, please fill in the number you award Plaintiffs for each copyright infringed on the line below. If you choose to award different amounts of damages for different copyrights, please identify the amount you award Plaintiffs for each copyright that you found Defendants infringed in the “DAMAGES AWARD” column of TABLE 2.

The amount of statutory damages that you must award Plaintiffs for each copyright infringed is as follows:

If Willful	<i>You must award damages between \$750 and \$150,000 per title infringed</i>
If Innocent	<i>You must award damages between \$200 and \$30,000 per title infringed</i>
If Neither Willful Nor Innocent	<i>You must award damages between \$750 and \$30,000 per title infringed</i>

What amount of statutory damages *per copyright infringed* do you award Plaintiffs?

Amount: \$ 100,000 ⁰⁰ per copyright*

**Do not fill in if you choose to award different amounts of damages in TABLE 2.*

Please proceed to Section III.

Verdict Form - Table 2

If Willful	You must award damages between \$750 and \$150,000 per title infringed
If Innocent	You must award damages between \$200 and \$30,000 per title infringed
If Neither Willful Nor Innocent	You must award damages between \$750 and \$30,000 per title infringed

Roadmap Title #	Case	TITLE	PUBLISHER	LIABILITY	WILLFULNESS			DAMAGES AWARD
					WILLFUL	INNOCENT	NEITHER WILLFUL NOR INNOCENT	
1	BDB 1	Classroom Management for Middle School and High School Teachers	Pearson		✓			\$ 100,000
2	BDB 1	Educational Administration: Concepts and Practices	Cengage		✓			\$ 100,000
3	BDB 1	Human Communication: The Basic Course, 12th Edition	Pearson		✓			\$ 100,000
4	BDB 1	International Economics: Theory and Policy	Pearson		✓			\$ 100,000
5	BDB 1	Population: An Introduction to Concepts and Issues	Cengage		✓			\$ 100,000
6	BDB 1	Research Methods for the Behavioral Sciences	Cengage		✓			\$ 100,000
7	BDB 1	Basics of Social Research, The	Cengage		✓			\$ 100,000
8	BDB 1	Communicating for Results	Cengage		✓			\$ 100,000
9	BDB 1	Environment: The Science Behind the Stories	Pearson		✓			\$ 100,000
10	BDB 1	Introduction to Teaching	Pearson		✓			\$ 100,000
11	BDB 1	An Introduction to the Profession of Social Work	Cengage		✓			\$ 100,000
12	BDB 1	Media Effects Research	Cengage		✓			\$ 100,000
13	BDB 1	Social Work: An Empowering Profession	Pearson		✓			\$ 100,000

Verdict Form - Table 2

If Willful	You must award damages between \$750 and \$150,000 per title infringed
If Innocent	You must award damages between \$200 and \$30,000 per title infringed
If Neither Willful Nor Innocent	You must award damages between \$750 and \$30,000 per title infringed

Roadmap Title #	Case	TITLE	PUBLISHER	LIABILITY	WILLFULNESS			DAMAGES AWARD
					WILLFUL	INNOCENT	NEITHER WILLFUL NOR INNOCENT	
14	BDB 1	Sociology: A Down to Earth Approach, Core Concepts	Pearson		✓			\$ 100,000
15	BDB 1	Understanding Human Development	Pearson		✓			\$ 100,000
16	BDB 1	Assessment In Special and Inclusive Education	Cengage		✓			\$ 100,000
20	BDB 1	Child, Family, School, Community: Socialization and Support	Cengage		✓			\$ 100,000
21	BDB 1	Communicating in Small Groups	Pearson		✓			\$ 100,000
23	BDB 1	Communication in Small Groups: Theory, Process, and Skills	Cengage		✓			\$ 100,000
24	BDB 1	Communication: Making Connections	Pearson		✓			\$ 100,000
25	BDB 1	Communication: Principles for a Lifetime	Pearson		✓			\$ 100,000
26	BDB 1	Comparative Politics in Transition	Cengage		✓			\$ 100,000
27	BDB 1	Cross-Cultural Language and Academic	Pearson		✓			\$ 100,000
28	BDB 1	Cross-Cultural Psychology	Pearson		✓			\$ 100,000
29	BDB 1	Doing Psychology Experiments	Cengage		✓			\$ 100,000
30	BDB 1	Educational Psychology	Pearson		✓			\$ 100,000
31	BDB 1	Educational Psychology	Pearson		✓			\$ 100,000
32	BDB 1	Essential Research Methods for Social Work	Cengage		✓			\$ 100,000
33	BDB 1	Essentials of Statistics, The	Cengage		✓			\$ 100,000

Verdict Form - Table 2

If Willful	You must award damages between \$750 and \$150,000 per title infringed
If Innocent	You must award damages between \$200 and \$30,000 per title infringed
If Neither Willful Nor Innocent	You must award damages between \$750 and \$30,000 per title infringed

Roadmap Title #	Case	TITLE	PUBLISHER	LIABILITY	WILLFULNESS			DAMAGES AWARD
					WILLFUL	INNOCENT	NEITHER WILLFUL NOR INNOCENT	
34	BDB 1	Essentials of Strategic Management	Pearson		✓			\$ 100,000
35	BDB 1	Family Business	Cengage		✓			\$ 100,000
36	BDB 1	Gendered Lives	Cengage		✓			\$ 100,000
37	BDB 1	Global Politics	Cengage		✓			\$ 100,000
38	BDB 1	Groups: Process and Practice	Cengage		✓			\$ 100,000
39	BDB 1	I Never Knew I Had A Choice	Cengage		✓			\$ 100,000
40	BDB 1	In Conflict and Order	Pearson		✓			\$ 100,000
42	BDB 1	Interpersonal Communication Book, The	Pearson		✓			\$ 100,000
43	BDB 1	An Invitation to Social Research	Cengage		✓			\$ 100,000
45	BDB 1	Management of Electronic Media	Cengage		✓			\$ 100,000
46	BDB 1	Marketing Strategy	Cengage		✓			\$ 100,000
47	BDB 1	Mass Media Research	Cengage		✓			\$ 100,000
48	BDB 1	Mechanics of Materials	Wiley		✓			\$ 100,000
49	BDB 1	Media Ethics	Pearson		✓			\$ 100,000
50	BDB 1	Meetings, Expositions, Events, and Conventions	Pearson		✓			\$ 100,000
51	BDB 1	Modern Radio Production	Cengage		✓			\$ 100,000
52	BDB 1	Nonverbal Communication in Human Interaction	Cengage		✓			\$ 100,000

Verdict Form - Table 2

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Roadmap Title #	Case	TITLE	PUBLISHER	LIABILITY	WILLFULNESS			DAMAGES AWARD
					WILLFUL	INNOCENT	NEITHER WILLFUL NOR INNOCENT	
54	BDB 1	Politics in States and Communities	Pearson		✓			\$ 100,000
55	BDB 1	Promoting Community Change: Making it Happen in the Real World	Cengage		✓			\$ 100,000
56	BDB 1	Public Relations Writing	Cengage		✓			\$ 100,000
57	BDB 1	Research Methods in Social Work	Cengage		✓			\$ 100,000
58	BDB 1	Research Methods for the Behavioral Sciences	Cengage		✓			\$ 100,000
59	BDB 1	Social Problems	Pearson		✓			\$ 100,000
60	BDB 1	Social Science	Pearson		✓			\$ 100,000
61	BDB 1	Sociology Now: Essentials	Pearson		✓			\$ 100,000
64	BDB 1	Strategic Market Management	Wiley		✓			\$ 100,000
66	BDB 1	Strategy and the Business Landscape	Pearson		✓			\$ 100,000
68	BDB 1	Theory, Practice, and Trends in Human Services	Cengage		✓			\$ 100,000
69	BDB 1	Understanding Psychology	Pearson		✓			\$ 100,000
70	BDB 1	Writing and Reporting News	Cengage		✓			\$ 100,000
71	BDB 1	Advertising Campaign Strategy	Cengage		✓			\$ 100,000
72	BDB 1	Applying Career Development Theory to Counseling	Cengage		✓			\$ 100,000
73	BDB 1	Basics of Research Methods for Criminal Justice and Criminology	Cengage		✓			\$ 100,000

Verdict Form - Table 2

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Roadmap Title #	Case	TITLE	PUBLISHER	LIABILITY	WILLFULNESS			DAMAGES AWARD
					WILLFUL	INNOCENT	NEITHER WILLFUL NOR INNOCENT	
74	BDB 1	Becoming Qualitative Researchers	Pearson		✓			\$ 100,000
75	BDB 1	Business Ethics	Cengage		✓			\$ 100,000
76	BDB 1	Case Studies in School Counseling	Pearson		✓			\$ 100,000
77	BDB 1	Color of Justice, The	Cengage		✓			\$ 100,000
78	BDB 1	Contemporary Issues in Curriculum	Pearson		✓			\$ 100,000
79	BDB 1	A Course in Phonetics	Cengage		✓			\$ 100,000
80	BDB 1	Crisis Intervention Strategies	Cengage		✓			\$ 100,000
81	BDB 1	Cultural Anthropology	Pearson		✓			\$ 100,000
82	BDB 1	Entrepreneurial Finance	Cengage		✓			\$ 100,000
83	BDB 1	Essentials of Systems Analysis and Design	Pearson		✓			\$ 100,000
84	BDB 1	Evaluating Social Work Services and Programs	Pearson		✓			\$ 100,000
85	BDB 1	Exploring Research	Pearson		✓			\$ 100,000
86	BDB 1	Family in Transition	Pearson		✓			\$ 100,000
87	BDB 1	Foundations of Addictions Counseling	Pearson		✓			\$ 100,000
88	BDB 1	Framework for Marketing Management	Pearson		✓			\$ 100,000
89	BDB 1	Fundamentals of Organizational Communication	Pearson		✓			\$ 100,000
90	BDB 1	Great Traditions in Ethics	Cengage		✓			\$ 100,000
91	BDB 1	Industrial Safety and Health Management	Pearson		✓			\$ 100,000

Verdict Form - Table 2

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Roadmap Title #	Case	TITLE	PUBLISHER	LIABILITY	WILLFULNESS			DAMAGES AWARD
					WILLFUL	INNOCENT	NEITHER WILLFUL NOR INNOCENT	
93	BDB 1	Intercultural Competence	Pearson		✓			\$ 100,000
94	BDB 1	Introduction to Behavioral Research Methods	Pearson		✓			\$ 100,000
95	BDB 1	Introduction to Electrodynamics	Pearson		✓			\$ 100,000
96	BDB 1	Introduction to Quantum Mechanics	Pearson		✓			\$ 100,000
97	BDB 1	Language Arts: Patterns of Practice	Pearson		✓			\$ 100,000
98	BDB 1	Leadership Experience, The	Cengage		✓			\$ 100,000
99	BDB 1	Literacy's Beginnings	Pearson		✓			\$ 100,000
100	BDB 1	Literature: Introduction to Reading	Pearson		✓			\$ 100,000
103	BDB 1	Morality in Practice	Cengage		✓			\$ 100,000
104	BDB 1	Multicultural Counseling and Psychotherapy	Pearson		✓			\$ 100,000
106	BDB 1	Organizational Communication	Pearson		✓			\$ 100,000
107	BDB 1	Organizations: Structures, Processes, and Outcomes	Pearson		✓			\$ 100,000
108	BDB 1	Power and Society	Cengage		✓			\$ 100,000
109	BDB 1	Practical Research Planning and Design	Pearson		✓			\$ 100,000
110	BDB 1	Principles of Microeconomics	Cengage		✓			\$ 100,000
111	BDB 1	Race, Class, and Gender: An Anthology	Cengage		✓			\$ 100,000
112	BDB 1	Social Organization of Work, The	Cengage		✓			\$ 100,000
113	BDB 1	Social Welfare	Pearson		✓			\$ 100,000

Verdict Form - Table 2

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Roadmap Title #	Case	TITLE	PUBLISHER	LIABILITY	WILLFULNESS			DAMAGES AWARD
					WILLFUL	INNOCENT	NEITHER WILLFUL NOR INNOCENT	
115	BDB 1	Supply Chain Management	Pearson		✓			\$ 100,000
116	BDB 1	Teaching in Middle and Secondary Schools	Pearson		✓			\$ 100,000
117	BDB 1	Theories of Personality	Cengage		✓			\$ 100,000
118	BDB 1	Theory and Practice of Counseling and Psychotherapy	Cengage		✓			\$ 100,000
119	BDB 1	Understanding Management	Cengage		✓			\$ 100,000
120	BDB 1	Biopsychology	Pearson		✓			\$ 100,000
121	BDB 1	Calculus	Cengage		✓			\$ 100,000
122	BDB 1	Chemistry	Cengage		✓			\$ 100,000
123	BDB 1	Economics: Private and Public Choice	Cengage		✓			\$ 100,000
124	BDB 1	Financial Accounting	Pearson		✓			\$ 100,000
125	BDB 1	Foundations for Clinical Mental Health	Pearson		✓			\$ 100,000
126	BDB 1	Foundations of Finance	Pearson		✓			\$ 100,000
127	BDB 1	Fundamentals of Clinical Supervision	Pearson		✓			\$ 100,000
129	BDB 1	Internship, Practicum, and Field Placement Handbook	Pearson		✓			\$ 100,000
130	BDB 1	Microeconomics: Private and Public Choice	Cengage		✓			\$ 100,000
132	BDB 1	Organizational Communication: Approaches and	Cengage		✓			\$ 100,000
133	BDB 1	Precalculus	Cengage		✓			\$ 100,000

Verdict Form - Table 2

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Roadmap Title #	Case	TITLE	PUBLISHER	LIABILITY	WILLFULNESS			DAMAGES AWARD
					WILLFUL	INNOCENT	NEITHER WILLFUL NOR INNOCENT	
134	BDB 1	Principles of Economics	Cengage		✓			\$ 100,000
135	BDB 1	Principles of Macroeconomics	Cengage		✓			\$ 100,000
136	BDB 1	School Law and the Public Schools	Pearson		✓			\$ 100,000
137	BDB 1	Social Studies for the Preschool/Primary Child	Pearson		✓			\$ 100,000
138	BDB 1	Strategic Management: A Competitive	Pearson		✓			\$ 100,000
139	BDB 1	Substance Abuse: Information for School	Pearson		✓			\$ 100,000
140	BDB 1	Supervision and Instructional Leadership	Pearson		✓			\$ 100,000
141	BDB 2	Communication Research: Strategies and Sources	Cengage		✓			\$ 100,000
142	BDB 2	Intercultural Communication	Cengage		✓			\$ 100,000
143	BDB 2	Interpersonal Communication	Cengage		✓			\$ 100,000
144	BDB 2	Interviewing for Solutions	Cengage		✓			\$ 100,000
145	BDB 2	Macroeconomics: Private and Public Choice	Cengage		✓			\$ 100,000
146	BDB 2	Management of Information Security	Cengage		✓			\$ 100,000
147	BDB 2	Principles of Instrumental Analysis	Cengage		✓			\$ 100,000
148	BDB 2	Critical Thinking	McGraw-Hill		✓			\$ 100,000
149	BDB 2	Fundamental Financial Accounting Concepts	McGraw-Hill		✓			\$ 100,000
150	BDB 2	Interpersonal Conflict	McGraw-Hill		✓			\$ 100,000

Verdict Form - Table 2

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If Neither Willful Nor Innocent	You must award damages between \$750 and \$30,000 per title infringed

Roadmap Title #	Case	TITLE	PUBLISHER	LIABILITY	WILLFULNESS			DAMAGES AWARD
					WILLFUL	INNOCENT	NEITHER WILLFUL NOR INNOCENT	
151	BDB 2	Macroeconomics: Principles, Problems & Policies	McGraw-Hill		✓			\$ 100,000
153	BDB 2	Abnormal Psychology	Pearson		✓			\$ 100,000
154	BDB 2	Biological Science	Pearson		✓			\$ 100,000
155	BDB 2	Business Statistics	Pearson		✓			\$ 100,000
156	BDB 2	Campbell Biology	Pearson		✓			\$ 100,000
157	BDB 2	Enterprise Systems for Management	Pearson		✓			\$ 100,000
158	BDB 2	Essentials of Organizational Behavior	Pearson		✓			\$ 100,000
159	BDB 2	Society: The Basics	Pearson		✓			\$ 100,000
160	BDB 2	Statistics for Managers	Pearson		✓			\$ 100,000
161	BDB 2	The Social Work Experience	Pearson		✓			\$ 100,000

III. Breach of Contract

Question 7. Have Plaintiffs established by a preponderance of the evidence that Defendants are liable for a breach of the 2008 Settlement Agreement?

Check only one box

☒ YES

☐ NO

Please have the foreperson sign and date the verdict sheet, and advise the Court by note that you have reached a verdict.

Dated: April 5, 2018

Signed:



FOREPERSON